

TEXAS BOARD OF PROFESSIONAL ENGINEERS

Policy Statement

Date: *February 10, 2014*

Approved: Lance Kinney, Executive Director (LK Init / 2/11/14 Date)

Reviewed By: David Howell, Deputy Executive Director DH 2/10/14
 Janet Sherrill, Director of IT/Communications
 Jeff Mutscher, Director of Financial Services
 C.W. Clark, Director of Compliance & Enforcement CWC
 Dewey Helmcamp III, Staff Attorney

Prepared By: *David Howell*

Title: *Rejected Criminal History Record Check*

Subject: *Criminal History Policy*

Replaces: *N/A*

Policy Determination:

Beginning January 1, 2014, all PE applicants and PEs wishing to renew an Active license must submit fingerprints to the Texas Department of Public Safety and its vendor MorphoTrust for the purpose of obtaining a Criminal History Record Check (CHRC).

- Upon receipt of information confirming submission of the fingerprints for processing in the MorphoTrust system and/or DPS, a licensee will be eligible to renew.
- A renewal may be processed even if the fingerprints are initially rejected by the DPS or FBI.

If the fingerprints are rejected by either DPS or the FBI, the individual will be notified by MorphoTrust. They will be given a period of time to resubmit fingerprints to MorphoTrust with no additional processing cost. If fingerprints are rejected twice, the applicant has met the intent of 137.7(c)(3) and is not required to submit additional fingerprints. Instead, TBPE staff will initiate a name-based search via DPS for the CHRC.

If a licensee receives a notice of rejection, but does not resubmit fingerprints for processing within three months of the renewal date, he or she has not met the intent of

137.7(c)(3) and is subject to disciplinary action and sanction as provided by Board Rule 139.31.

Background and reason(s) for policy interpretation:

§137.7 (c) A license holder may renew a license by submitting:

- (3) Documentation of submittal of fingerprints for criminal history record check as required by §1001.3535 of the Act, unless previously submitted to the board.

§ 1001.3535. Criminal History Record Information Requirement for License Renewal

- (a) An applicant renewing a license issued under this chapter shall submit a complete and legible set of fingerprints for purposes of performing a criminal history check of the applicant as provided by Section 1001.3035.
- (b) The board may not renew the license of a person who does not comply with the requirement of Subsection (a).

Submission of the fingerprints is the first qualifying action. In order to not delay a renewal due to processes outside the control of TBPE, the initial submission of the prints will remove the bar for renewal. It is understood, however, that the purpose of the fingerprint submittal is the CHRC, which requires a “legible” set to be submitted. If, after appropriate notification from MorphoTrust, a second set of fingerprints is not submitted in a timely manner, the CHRC cannot be performed, which is not the intent of the rule and statute. Failure to submit a second set of fingerprints within 3 months of the renewal date is grounds for disciplinary action and sanction as provided by Board Rule 139.31.

Applicable Rules:

§137.7 License Expiration and Renewal and 139.31

Statutory Authority:

§ 1001.3035. Criminal History Record Information Requirement for License Renewal

Other References:

N/A

Keywords:

Criminal History Record Check